BOMBAY ACT No. III OF 1956[1].

[THE BOMBAY AERIAL ROPEWAYS ACT, 1955.]

[*22nd February 1956*]

An Act to authorize, facilitate and regulate the construction and working of aerial ropeways in the State of Bombay.

WHEREAS it is expedient to authorize, facilitate and regulate the construction and working of aerial ropeways in the State of Bombay ; It is hereby enacted in the Sixth Year of the Republic of India as follows :—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Aerial Ropeways Act, 1955.

(*2*) It extends to the whole of the State of Bombay.

(*3*) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) " aerial ropeway " means a system of overhead ropes on which carriers are used for the purpose of carriage of passengers, animals or goods and includes posts, ropes, carriers, stations, offices, warehouses, workshops, machinery and other works used for the purposes of, or in connection with, and all land appurtenant to, such aerial ropeway ;

(*b*) " carrier " means any vehicle or receptacle hung or suspended from or, hauled by, a rope and used for the carriage of passengers, animals or goods or for any other purpose in connection with the working of a ropeway ;

(*c*) " Inspector " means an Inspector of aerial ropeways appointed under section 4 ;

(*d*) " post " means a post, trestle, standard, strut, stay or other contrivance or part of a contrivance for carrying, suspending or supporting a rope ;

(*e*) " prescribed " means prescribed by rules made under this Act ;

(*f*) " promoter " means any person in whose favour an order has been made under section 10 or under section 30 or on whom the rights and liabilities conferred or imposed on the promoter by this Act or by rules and orders made under this Act as to the construction, maintenance and use of aerial ropeways have devolved or have been imposed by section 42 ; and includes a lessee to whom a lease has been granted under section 27 ;

(*g*) " rate " includes any fare, charge or other payment for the carriage of passengers, animals or goods on an aerial ropeway ;

(*h*) " rope " includes any cable, wire, rail or way, whether flexible or rigid, for suspending, carrying or hauling a carrier, if any part of such cable, wire, rail or way is carried overhead and is suspended from or supported on posts ;

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, Part V, pp. 201-202.

(*i*) " rules " means rules made under this Act ;

(*j*) " undertaking " means all moveable and immovable property of the promoter suitable to and used by him for the purposes of an aerial ropeway.

CHAPTER II.

ADVISORY BOARD AND ESTABLISHMENT.

Power of State Government to constitute Advisory Board for aerial ropeways.

3. (*1*) The State Government shall, by notification in the *Official Gazette*, constitute an Advisory Board for aerial ropeways.

(*2*) Such Board shall consist of a Chairman to be appointed by the State Government who shall be a Chief Engineer to the State Government and two persons to be appointed by the State Government as expert members.

(*3*) The State Government may, by general or special order,—

(*a*) define the duties of, and regulate the procedure of, the Advisory Board ;

(*b*) determine the tenure of office of the members of the Board ; and

(*c*) give directions as to the payment of fees to, and the travelling expenses incurred by, any member of such Board in the performance of his duty.

Appointment of Inspectors and subordinate officers and servants and their powers and duties.

4. (*1*) The State Government may appoint such persons as they deem fit to be Inspectors of aerial ropeways.

(*2*) The Inspector shall exercise such powers and perform such functions and duties as may be provided by or under the provisions of this Act. It shall also be the duty of any such Inspector from time to time to inspect such ropeways and to determine whether they are maintained in a fit condition and worked with due regard to the convenience and safety of the persons using them and of the general public, and consistently with the provisions of this Act.

(*3*) The State Government may also appoint other subordinate officers and servants with such designations and assign to them such powers, duties and functions as may be necessary for carrying out the purposes of this Act.

CHAPTER III.

AERIAL ROPEWAYS FOR PUBLIC TRAFFIC.

Procedure and Preliminary Investigation.

Unauthorized construction, maintenance, etc., of aerial ropeways prohibited.

5. No aerial ropeway shall be constructed, opened, maintained or worked except in accordance with the provisions of this Act.

Application for concession.

6. Every application by an intending promoter other than the State Government for permission to undertake the necessary preliminary investigations in regard to a proposed aerial ropeway shall be submitted to the State Government.

Contents of application.

7. Every application to be made under section 6 shall include,—

(*a*) a description of the undertaking and of the route to be followed by the proposed aerial ropeway ;

(*b*) a description of the system of construction and management and of the advantages to the community to be expected from such ropeway ;

(*c*) an estimate of the cost of construction thereof ;

(*d*) a statement of the estimated working expenses and profits in respect thereof ;

(*e*) a statement of the maximum and minimum rates which it is proposed to charge ;

(*f*) such maps, plans, sections and drawings in connection therewith as the State Government may require in order to form an idea of the proposal.

Sanction to preliminary investigation.

8. (*1*) Subject to the provisions of this Act, and of section 4 of the Land Acquisition Act, 1894, the State Government may accord sanction to the intending promoter to make such surveys as may be necessary, and require him to submit such detailed estimates, plans, sections and specifications and such further information as it may think necessary for the full consideration of the proposal.

I of 1894.

(*2*) The intending promoter shall not be entitled to claim any compensation from the State Government for any expense incurred under this section in the event of his application being refused.

Orders Authorizing the Construction of Ropeways.

Order authorizing construction and contents of such order.

9. (*1*) The State Government may, on application made by any intending promoter, and after due consideration of the details supplied in accordance with section 8, publish in the *Official Gazette* a draft of the proposed order authorizing the construction by, or on behalf of, such promoter, subject to such restrictions and conditions as the State Government may think proper, of an aerial ropeway within any area, or along any route specified in such order—

(*a*) for the public carriage of passengers ;

(*b*) for the public carriage of passengers and goods ;

(*c*) for the public carriage of animals and goods ; or

(*d*) for the public carriage of passengers, animals and goods.

(*2*) A notice shall be published with the draft order stating that any objection or suggestion which any person may desire to make with respect to the proposed order, if submitted to the State Government within three months from the date of publication of such notice will be considered by the State Government.

(*3*) The State Government shall also cause public notice of the intention to make the order to be given at convenient places within the said area or along the said route, and shall, so far as may be conveniently possible, cause a like notice to be served on every owner or occupier of land over which such route lies, and shall consider any objection or suggestion, with respect to the proposed order, which may be received from any person within the period specified in such notice and decide thereon.

(*4*) The draft of the proposed order may specify—

(i) a time within which the capital required for the construction of the aerial ropeway shall be raised ;

(ii) a time within which the construction shall be commenced ;

(iii) a time within which the construction shall be completed ;

(iv) the conditions under which any concession may be given by the State Government or a local authority to the promoter ;

(v) subject to the provisions of section 24, the rights of purchase by the State Government or by a local authority concerned ;

(vi) the conditions relating to the structural design, quality of materials, factors of safety, method of computing stresses, and other such technical detail as may be considered necessary ;

(vii) the conditions relating to the construction of the aerial ropeway over public ways of communication except highways which are or have been declared by or under any law made by Parliament to be national highways, railways and tramways not wholly within a municipal area, and, with the previous consent of the Central Government or the railway administration, as the case may be, over such national highways, railways and tramways or over mining properties ;

(viii) the conditions under which the promoter may sell or transfer his rights to the State Government or to a local authority, or to any other person ;

(ix) the conditions under which the aerial ropeway may be taken over by the State Government to be worked by itself or by a local authority or by a person other than the promoter ;

(x) the motive power to be used on the aerial ropeway and the conditions, if any, on which such power may be used ;

(xi) the minimum headway to be maintained under different parts of the rope ;

(xii) the points under the rope at which bridges or guards shall be constructed and maintained ;

(xiii) the amount of security, if any, to be deposited by the promoter in the event of his application being granted ;

(xiv) the traffic which may be carried on the aerial ropeway, the traffic which the promoter shall be bound to carry, and the traffic which he may refuse to carry ;

(xv) subject to the provisions of section 18, the rates that may be charged by the promoter and the circumstances in which and the manner in which these rates may be revised by the State Government ; and

(xvi) such other matters as the State Government may deem necessary.

Final order.

10. (*1*) If, after considering any objections or suggestions which may have been made in respect to the draft before the expiry of the period of three months specified in sub-section (*2*) of section 9, the State Government is of opinion that the application should be granted with or without modifications, or subject to any restrictions or conditions, it shall make an order accordingly.

(*2*) Every order authorizing the construction of an aerial ropeway made under sub-section (*1*) shall be published in the *Official Gazette*, and such publication shall be conclusive proof that the order has been made as required by this section.

Cessation of powers given by order under section 10.

11. If a promoter authorized by an order made under section 10 to construct an aerial ropeway does not within the time specified in the order—

(*a*) succeed in raising the full amount of capital required for the completion of such ropeway, or

(*b*) substantially commence the construction of such ropeway, or

(*c*) complete the construction thereof,

the powers given to the promoter by such order shall, unless the State Government extends the time so specified, cease to be exercised.

Opening of aerial ropeway to passenger traffic.

12. When the construction of an aerial ropeway has been authorized under this Act for the public carriage of animals and goods only, the State Government may, on application made by the promoter, sanction the opening of such ropeway for the public carriage of passengers also.

Promoter and his servants, etc., to afford facilities to Inspectors and other officers.

13. The promoter, his servants, agents or any person acting on his behalf shall afford to all Inspectors and officers and servants appointed under section 4 reasonable facilities for the exercise of the powers and the performance of the duties and functions conferred and imposed on them under the provisions of this Act and the rules.

Inspection of Public Aerial Ropeways.

Inspection of aerial ropeway before opening.

14. (*1*) No aerial ropeway shall be opened for any kind of traffic until the State Government or an Inspector empowered by the State Government in this behalf has, by an order, sanctioned the opening thereof for that purpose. Such sanction shall not be given until rules for the safe and efficient working of the aerial ropeway have been duly made under section 45 and an Inspector has, after inspection of the aerial ropeway, reported in writing to the State Government—

(*a*) that he has made a careful inspection of the aerial ropeway and appurtenances;

(*b*) that the moving and fixed dimensions and other conditions prescribed under sub-section (*4*) of section 9 and sub-section (*1*) of section 10 have been complied with;

(*c*) that the aerial ropeway is sufficiently equipped for the traffic for which it is intended;

(*d*) that the aerial ropeway is, in his opinion, fit for public traffic and can be used without danger either to the persons, animals or goods carried thereon, or to the persons employed thereon, or to the general public.

(*2*) The provisions of sub-section (*1*) shall extend to the opening of additional sections of the aerial ropeway, and to deviation lines and any alteration or reconstruction materially affecting the structural character of any work to which the provisions of sub-section (*1*) apply or are extended by this sub-section.

Construction and Maintenance of Aerial Ropeways for Public Traffic.

Authority of promoter to execute all necessary works.

15. (*1*) Subject to the provisions of this Act and the rules, and in the case of immovable property not belonging to the promoter, to the provisions of any enactment for the time being in force for the acquisition of land for public purposes, a promoter of an aerial ropeway for public traffic may—

(*a*) make such survey as he thinks necessary ;

(*b*) place and maintain posts in or upon any immovable property ;

(*c*) suspend and maintain a rope over, along or across any immovable property ;

(*d*) make such bridges, culverts, drains, embankments and roads as may be necessary ;

(*e*) erect and construct such machinery, offices, stations, warehouses and other buildings, works and conveniences as may be necessary ; and

(*f*) do all other acts necessary for constructing, maintaining, altering, repairing and using the aerial ropeway :

Provided that a promoter may take any action under clause (*b*) or clause (*c*) of this sub-section, notwithstanding the objection of the owner or occupier of the property affected thereby, if the Collector, after giving such owner and occupier by notice in writing an opportunity of being heard, by an order in writing, permits such action.

(*2*) When making an order under the proviso to sub-section (*1*), the Collector shall fix the amount of compensation or of annual rent or of both which should, in his opinion, be paid by the promoter to the owner of the property affected thereby, or, in the case of immovable property, to the owner or occupier thereof.

Explanation.—For the purposes of this section, if a promoter is not a company within the meaning of the Indian Companies Act, 1913, or a local authority, such promoter shall be deemed to be a company and the provisions of Part VII of the Land Acquisition Act, 1894, shall *mutatis mutandis* apply to the acquisition of immovable property on his behalf. VII of 1913. I of 1894.

Temporary entry upon land for repairing or preventing accident.

16. (*1*) Subject to the rules, a promoter may, at any time, for the purpose of examining, repairing or altering an aerial ropeway or of preventing any accident, enter upon any immovable property adjoining such ropeway for public traffic, and may do all such works as may be necessary for such purpose.

(*2*) In the exercise of the powers conferred by sub-section (*1*), the promoter shall cause as little damage as possible, and compensation shall be paid by him for any damage so caused ; and in case of dispute as to the amount of such compensation, or the person to whom it shall be paid, the matter shall be referred to the decision of the Collector.

Removal of trees, structures, etc.

17. (*1*) Where any tree standing or lying near an aerial ropeway for public traffic, or where any structure or other object which has been placed or had fallen near any such ropeway subsequently to the issue of an order under section 10 in regard to such ropeway, interrupts or interferes with, or is likely to interrupt or interfere with, the construction, maintenance, alteration or use of the ropeway, the Collector may, on the application of the promoter, cause the tree, structure or object to be removed or otherwise dealt with as he thinks fit.

(*2*) When disposing of an application under sub-section (*1*), the Collector shall, in the case of any tree in existence before the construction of the aerial ropeway, award to the person interested in the tree such compensation, if any, as he thinks reasonable and the Collector may recover the same from the promoter as an arrear of land revenue.

Explanation.—For the purposes of this section, the expression "tree" shall be deemed to include any shrub, hedge, junglegrowth or other plant.

Working of Aerial Ropeway for Public Traffic.

Promoter may fix rates.

18. The promoter of an aerial ropeway for public traffic shall, for the purposes of such ropeway, and subject to such maximum and minimum rates as may be prescribed, have power from time to time to fix the rates for the carriage of passengers, animals or goods, as the case may be, on such ropeway.

Duty of promoter to work aerial ropeway without partiality.

19. No promoter shall, for the purposes of working an aerial ropeway for public traffic make or give any undue or unreasonable preference or advantage to, or in favour of, any particular person or any particular description of traffic in any respect whatsoever, or subject any particular person or any particular description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

Reporting of accidents.

20. When any of the following accidents occur in the course of working an aerial ropeway for public traffic, namely :—

(*a*) any accident attended with loss of human life or with grievous hurt as defined in the Indian Penal Code, or with serious injury to property ;

XLV of 1860.

(*b*) any accident of a description usually attended with loss of human life or with such grievous hurt as aforesaid or with serious injury to property ;

(*c*) any accident of any other description which the State Government may specify in this behalf in the rules,

the promotor shall, without unnecessary delay, send notice of the accident to the State Government and to the Inspector and the servant of the promoter in charge of the station on the aerial ropeway nearest to the place at which the accident occurred or, where there is no station, the promoter's servant in charge of the section of the aerial ropeway on which the accident occurred, shall, with the least possible delay, give notice of the accident in Greater Bombay, to the Commissioner of Police and elsewhere to the Magistrate of the district in which the accident occurred and to the officer in charge of the police station within the local limits of which such accident occurred.

Power to close and re-open aerial ropeway.

21. (*1*) If, after inspecting any aerial ropeway opened to public traffic an Inspector is of opinion that the aerial ropeway or any specified part thereof cannot be used without danger to the public, or is no longer in a fit state for the carriage of any specified class of traffic, he shall state that opinion, together with the ground therefor, to the State Government.

(*2*) The State Government, after such further inquiry, if any, as it may think fit, may thereupon order that, for reasons, to be set forth in the order, the aerial ropeway, or the part thereof so specified, be closed to all traffic or to any specified class of traffic :

Provided that, in any case of extreme urgency, the Inspector may order the suspension of the working of the ropeway or any part thereof which he considers necessary pending the orders of the State Government on the case.

(*3*) When, under sub-section (*2*) an aerial ropeway or any part thereof has been closed to any traffic, it shall not be re-opened to such traffic, until it has been inspected, and its re-opening sanctioned, in the prescribed manner.

Discontinuance of Aerial Ropeways for Public Traffic.

Cessation of powers of promoter on discontinuance of aerial ropeway.

22. If, at any time after the opening of an aerial ropeway for public traffic, it is proved to the satisfaction of the State Government that the promoter has, continuously for a period of three months or more, discontinued the working of the aerial ropeway or of any part thereof, without a reason sufficient, in the opinion of the State Government, to warrant such discontinuance, the State Government, if it thinks fit, may by notification in the *Official Gazette*, declare that the powers of the promoter in respect of such ropeway or part thereof shall be at an end, and with effect from the date of the publication of such notification, the promoter shall cease to exercise such powers.

Power of removal of aerial ropeway on cessation of promoter's powers.

23. (*1*) When a notification has been published under section 22, in respect of any aerial ropeway or of any part thereof—

(*a*) an officer appointed in that behalf by the State Government may, at any time after the expiration of two months from the date of such notification, remove such ropeway or part thereof, as the case may be ; and

(*b*) the promoter shall pay to the officer so appointed such costs of removal as shall be certified by that officer to have been incurred by him.

(*2*) If the promoter fails to pay the amount of costs so certified within one month after the delivery to him of the certificate or of a copy thereof, such officer—

(*a*) may, without any previous notice to the promoter and without prejudice to any other remedy which he may have for the recovery of the said amount, sell and dispose of the materials of the aerial ropeway or part thereof so removed ; and

(*b*) may, out of the proceeds of the sale, pay and reimburse himself the amount of costs certified as aforesaid and of the costs of the sale ; and

(*c*) shall pay the surplus, if any, of such proceeds to the promoter.

Purchase of Aerial Ropeways for Public Traffic.

Power of State Government and local authorities to purchase aerial ropeways for public traffic.

24. (*1*) When an order under section 10 has been made in favour of a promoter of an aerial ropeway for public traffic not being a local authority, the State Government, or a local authority specified in the order published under the said section 10 shall on the expiration of such period not exceeding twenty-one years, and of every such subsequent period, not exceeding seven years, as shall be specified in such order, have the option of purchasing the undertaking, and if the State Government, or the local authority with the previous sanction of the State Government, elects to so purchase the undertaking, the promoter shall sell the undertaking to the State Government or to the local authority, as the case may be, on payment of the value of all lands, buildings, works, materials, plant and apparatus of the promoter, suitable to, and used by him for the purposes of the undertaking, such value to be in case of difference or dispute determined by arbitration :

Provided that the value of such lands, buildings, works, materials, plant and apparatus shall be deemed to be their fair market value at the time of purchase, due regard being had to the nature and condition for the time being of such lands, buildings, works, materials, plant and apparatus, and to the state of repair thereof, and to the circumstances that they are in such a position as to be ready for immediate working, and to the suitability of the same for the purposes of the undertaking.

(*2*) Where a purchase has been effected under sub-section (*1*)—

(*a*) the undertaking shall vest in the purchaser free from any debts, mortgages or similar obligations of the promoter or attaching to the undertaking :

Provided that any such debts, mortgages or similar obligations shall attach to the purchase-money in substitution for the undertaking ; and

(*b*) save as aforesaid, the order published under section 10 shall remain in full force, and the purchaser shall be deemed to be the promoter :

Provided that where the State Government elects to purchase, the order under section 10 shall, after purchase, in so far as the State Government is concerned, cease to have any further operation but all the other provisions of this Act excepting section 33 in so far as they relate to aerial ropeways for public traffic shall apply in respect of the undertaking so purchased by the State Government.

(*3*) Not less than two years' notice in writing of any election to purchase under this section shall be served upon the promoter by the State Government or the local authority, as the case may be.

(*4*) Notwithstanding anything hereinbefore contained, a local authority may, with the previous sanction of the State Government, waive its option to purchase and enter into an agreement with the promoter for the working by him of the undertaking until the expiration of the next subsequent period referred to in sub-section (*1*) upon such terms and conditions as may be stated in the agreement.

Power to promoter to sell when option to purchase exercised and order revoked by consent.

25. Where, on the expiration of any of the periods referred to in section 24, neither the State Government nor a local authority purchases the undertaking, and the order published under section 10 is, on the application or with the consent of the promoter, revoked, the promoter shall have the option of disposing of all lands, buildings, works, materials, plant and apparatus belonging to the undertaking in such manner as he may think fit.

Inability or Insolvency of Promoter.

Proceedings in case of inability or insolvency of promoter.

26. (*1*) If, at any time after the opening of an aerial ropeway for public traffic, it appears to the State Government that the promoter is insolvent or is unable to maintain the aerial ropeway, or to work the same with advantage to the public or to work it at all, the State Government may declare that the powers of the promoter, in respect of such ropeway, shall, at the expiration of six months from the date of such declaration, be at an end ; and thereupon the promoter shall, at the expiration of that period cease to exercise such powers.

(*2*) At any time after the expiration of the said period of six months, an officer appointed by the State Government in that behalf, may, notwithstanding anything contained in the Presidency-Towns Insolvency Act, 1909, or the Provincial Insolvency Act, 1920, remove the aerial ropeway in the same manner and subject to the same provisions as to the payment of costs and to the same remedy for the recovery thereof, in every respect, as in cases of removal under section 23.

III of 1909.
V of 1920.

Lease of aerial ropeway by local authority.

27. (*1*) Where the promoter of an aerial ropeway for public traffic is a local authority or where a local authority has purchased any such ropeway under section 24, such local authority may with the previous sanction of the State Government and subject to such conditions as the State Government may think fit to impose, let to any person, by a lease, the right of user of the aerial ropeway and of demanding and taking the rates for the carriage of passengers, animals or goods, as the case may be, on such ropeway subject to such maximum and minimum rates as may be prescribed.

(*2*) On the determination of such lease, the local authority may from time to time renew the lease for such further term and on such conditions as the State Government may approve.

(*3*) Every lease made under this section shall imply a condition of re-entry if at any time after the making or renewal thereof, it is proved to the satisfaction of the State Government that the lessee has practically discontinued the working of the aerial ropeway so leased or of any part thereof for a period of one month without a reason sufficient in the opinion of the State Government to warrant the discontinuance.

(*4*) Any person to whom any right of the promoter is let by a lease under sub-section (*1*) or (*2*) shall furnish the local authority with security for such amount as the local authority may determine for the due fulfilment of the conditions of the lease.

(*5*) Any person to whom any right of the promoter is let under sub-section (*1*) or (*2*) shall not exercise such right except in accordance with the conditions of the lease and the provisions of this Act and the rules and in the case of a contravention of any of the provisions of this Act or the rules he shall be subject to the same liability as a promoter.

Review and Revision.

Review of orders under section 10 or 21.

28. (*1*) When any person is aggrieved by an order made under section 10 or under section 21, such person, on payment of the prescribed fees, may within thirty days of the said order, apply to the State Government for review of the same, and the State Government shall then take the advice of the Advisory Board in the prescribed manner and shall consider such advice and pass such orders in the matter as the State Government may think to be just and proper.

(*2*) With a view to enabling the Board to tender their advice under sub-section (*1*) the Board, with the consent of the State Government and on payment of such further fees as may be prescribed, may make such further inquiry into the matter as the Board may consider to be necessary.

Orders of Collector subject to revision by State Government.

29. No suit shall lie, in respect of any matter referred to in the proviso to sub-section (*1*) or sub-section (*2*) of section 15, section 16 or sub-section (*1*) of section 17, but every order made by the Collector under any of those sections, and every award made by him under sub-section (*2*) of section 17 shall be subject to revision by the State Government except in the case of an award of compensation made by the Collector on account of action taken under clause (*b*) or (*c*) of sub-section (*1*) of section 15, which award shall be subject to revision by a Judge of the City Civil Court in Greater Bombay and elsewhere by the District Judge.

CHAPTER IV.

Private Aerial Ropeways for Certain Purposes.

Application for acquisition of land in case of certain private aerial ropeways.

30. (*1*) Where the State Government is satisfied that the construction, extension, working or management of an aerial ropeway for private traffic is likely to prove useful to the public by reason of its facilitating the transport of commodities, in general use or is required for the conservation or supply of such commodities and where the intending promoter of such ropeway is desirous of obtaining any land for the purpose of such construction, extension, working or management, the State Government may, on the application of such promoter, acquire on his behalf such land under the provisions of any enactment for the time being in force for the acquisition of land for public purposes or procure the temporary occupation of the same under the provisions of Part VI of the Land Acquisition Act, 1894, whether the said intending promoter is or is not a company as defined in that Act.

I of 1894.

(*2*) The State Government shall, by notification in the *Official Gazette*, declare the commodities which shall be deemed to be commodities in general use for the purposes of sub-section (*1*).

Explanation.—For the purposes of this Act, if a promoter is not a company within the meaning of the Indian Companies Act, 1913, or a local authority, such promoter shall be deemed to be a company and the provisions of Part VII of the Land Acquisition Act, 1894, shall *mutatis mutandis* apply to the acquisition of immovable property on his behalf.

VII of 1913. I of 1894.

Agreement.

31. (*1*) No order shall be made by the State Government under sub-section (*1*) of section 30 until an inquiry has been held as hereinafter provided and the intending promoter has entered into an agreement with the State Government in respect of the matters mentioned in sub-section (*4*).

(*2*) Such inquiry shall be held by such officer and at such time and place as the State Government shall appoint.

(*3*) Such officer may summon and enforce the attendance of witnesses and compel the production of documents by the same means and, as far as possible in the same manner as is provided by the Code of Civil Procedure, 1908, in the case of civil court.

V of 1908.

(*4*) Such officer shall report to the State Government the result of the inquiry, and if the State Government is satisfied that the aerial ropeway is or is likely to be useful to the public, it shall, subject to the rules, require the intending promoter to enter into an agreement with the State Government providing to the satisfaction of the State Government for the following matters, namely :—

(*a*) the terms on which the aerial ropeway shall be held by the promoter ;

(*b*) the time within which, and the conditions on which, the aerial ropeway shall be constructed, maintained and used.

(*5*) Every such agreement shall, as soon as may be after its execution, be published in the *Official Gazette*.

Temporary occupation of land in case of private aerial ropeway.

32. If land is to be occupied temporarily in accordance with the provisions of sub-section (*1*) of section 30 on behalf of the promoter of an aerial ropeway for private traffic, and if the State Government, on the application of the promoter, so directs, then the provisions of Part VI of the Land Acquisition Act, 1894, shall apply to such occupation, subject to the provisions that, notwithstanding anything contained in section 36 of the Land Acquisition Act, 1894, the occupation and use by the promoter of the land occupied shall continue for such period, not exceeding ten years, as the State Government may fix, and that the compensation payable to the persons interested in such land shall be fixed with due regard to any additional loss or inconvenience caused to them by reason of such period of occupation, including loss caused by the interruption of the getting of minerals by reason of such occupation. I of 1894. I of 1894.

CHAPTER V.

Offences, Penalties and Arrest.

Failure of person or promoter to comply with Act.

33. (*1*) If any person constructs, opens, maintains or works any aerial ropeway, in contravention of the provisions of section 5, or

(*2*) if any promoter of an aerial ropeway for public traffic—

(*a*) constructs or maintains an aerial ropeway otherwise than in accordance with the provisions of an order made under section 10, or

(*b*) fails to comply with the provisions of section 13, or

(*c*) opens an aerial ropeway or permits it to be opened in contravention of any of the provisions of section 14, or

(*d*) fails to pay within a reasonable time any compensation awarded under section 15, 16, 17 or 29, or

(*e*) contravenes any of the provisions of section 19, or

(*f*) fails to send notice of any accident as required by section 20, or

(*g*) fails to close an aerial ropeway in accordance with an order passed under sub-section (*1*) of section 21, or re-opens any aerial ropeway in contravention of sub-section (*2*) of that section, or

(*h*) continues to exercise the powers of a promoter in respect of any aerial ropeway, in contravention of the provisions of section 22 or section 26, or

(*i*) fails to comply with the provisions of section 38, or

(*j*) contravenes any of the provisions of section 39, or

(*k*) contravenes the provisions of any rule made under section 45,

such person or the promoter, as the case may be, shall, without prejudice to the enforcement of specific performance of the requirements of this Act, or of any other remedy, which may be obtained against him, on conviction, be punished with fine which may extend to two hundred rupees and, in the case of a continuing offence, to a further fine which may extend in the case of an offence specified in sub-clause (*d*), (*e*), (*f*), (*i*), (*j*) or (*k*) of clause (2) to fifty rupees, and in the case of an offence specified in clause (1) or sub-clause (*a*), (*b*), (*c*), (*g*) or (*h*) of clause (2) to one thousand rupees for every day after the first conviction during which the offence continues to be committed.

Unlawfully obstructing promoter or lessee in exercise of his powers.

34. If any person without lawful excuse, the burden of proving which shall be upon him, wilfully obstructs any person acting under the authority of the promoter in the lawful exercise of his powers in constructing, maintaining, altering, repairing, using or working an aerial ropeway, or destroys any mark made for the purpose of setting out the line or route of such ropeway, he shall, on conviction, be punished with fine which may extend to two hundred rupees.

Unlawfully interfering with aerial ropeway.

35. If any person without lawful excuse, the burden of proving which shall be upon him, wilfully does any of the following things, namely :—

(*a*) interferes with, removes or alters any part of an aerial ropeway or of the works connected therewith,

(*b*) does anything in such a manner as to obstruct any carrier travelling on an aerial ropeway,

XLV of 1860 (*c*) attempts to do or abets within the meaning of the Indian Penal Code, the doing of anything mentioned in clause (*a*) or clause (*b*),

he shall, without prejudice to any other remedy which may be obtained against him in a Court, on conviction, be punished with fine which may extend to two hundred rupees.

Maliciously doing, abetting or attempting to do, acts endangering safety of persons travelling or being upon aerial ropeway.

36. If any person does anything mentioned in clause (*a*), (*b*) or (*c*) of section 35 XLV of 1860. or does, attempts to do, or abets, within the meaning of the Indian Penal Code, the doing of any other act or thing in relation to an aerial ropeway with intent or with knowledge that he is likely to endanger the safety of any person travelling or being upon the aerial ropeway, he shall, on conviction, be punished with imprisonment for a term which may extend to fourteen years.

Arrest for offences against certain sections.

37. (*1*) If any person commits any offence punishable under section 35 or 36 such person may be arrested without warrant or other written authority by any servant of the promoter or by any police officer or by any other person whom such servant or officer may call to his aid.

(*2*) Where any such servant or any other person arrests any person under sub-section (*1*), he shall make over the person so arrested to a police officer or in the absence of a police officer take such person or cause him to be taken in custody to the nearest police station.

(*3*) No person arrested under sub-section (*1*) shall be detained in custody for a longer period than under all the circumstances of the case is reasonable and such period shall not, in the absence of a special order of a Magistrate exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.

CHAPTER VI.

MISCELLANEOUS.

Returns.

38. A promoter of an aerial ropeway for public traffic shall, in respect of such ropeway, submit to the State Government returns of capital, receipts and traffic at such intervals and in such forms as may be prescribed.

Protection of roads, railways, tramways and water-ways.

39. No promoter of an aerial ropeway shall, in the course of the construction, repair, working or management of such ropeway, cause any permanent injury to any public road, railway, tramway or waterway, or obstruct or interfere with, otherwise than temporarily, as may be necessary, the traffic on any public road, railway, tramway or waterway.

Acquisition of land by promoter.

40. The State Government may, if it thinks fit, on the application of any promoter of an aerial ropeway for public traffic desirous of obtaining any land for the purpose of constructing, working or managing such ropeway, direct that he may, subject to the provisions of this Act, acquire such land under the provisions of the Land Acquisition Act, 1894, in the same manner and on the same conditions as it might be acquired if the promoter were a company. I of 1894.

Limitation of claims for damage to animals or goods.

41. No person shall be entitled to a refund of an overcharge in respect of animals or goods carried by an aerial ropeway for public traffic or to compensation for the loss, destruction or deterioration of animals or goods delivered to be so carried, unless his claim to the refund or compensation has been preferred in writing by him or on his behalf to the promoter within six months from the date of the delivery of the animals or goods for carriage by the aerial ropeway.

Application of Act to certain private aerial ropeways.

42. (*1*) Sections 1, 2, 4, 5, 13, 14, 15, 16, 17 and 20, sub-section (*1*) of section 21, and sub-clauses (*b*), (*f*), (*g*), (*j*) and (*k*) of clause (*2*) of section 33, sections 36, 37 and 39 and sub-sections (*1*) and (*3*) and clauses (*a*), (*d*), (*e*), (*g*), (*h*), (*j*), (*m*) and (*o*) of sub-section (*2*) of section 45 shall also apply to the private aerial ropeways constructed for the purposes referred to in section 30 :

Provided that, in the application of section 17 to any such ropeway, for the words and figures " the issue of an order under section 10 " the words, figures and brackets " the issue of a notification for the acquisition of, or an order for the temporary occupation of land in accordance with the provisions of sub-section (*1*) of section 30 ", shall be deemed to be substituted.

(*2*) The State Government, on the application of the promoter or otherwise may declare that the provisions of section 30 and of sub-section (*1*) of this section shall apply to any aerial ropeway, or class of aerial ropeways, for private traffic.

Inspectors, officers and servants to be public servants.

43. The Inspectors and all officers and servants appointed under section 4 shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

Protection of persons acting in good faith under this Act.

44. No suit or other proceeding shall lie against the State Government or any person for anything which is in good faith done or intended to be done under this Act or the rules.

Power of State Government to make rules.

45. (*1*) The State Government may, subject to the condition of previous publication, make rules to carry out the purposes of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for the following matters :—

(*a*) powers of Inspectors under section 4 ;

(*b*) the payment of money or lodging of securities, by way of deposit, by the intending promoter before an order is published under sub-section (*2*) of

section 10 ; the investment of money so paid ; the disposal of interest or dividends from time to time accruing due on money or securities so paid, lodged or invested ; the application of the money or securities or the interest or dividend thereon for discharging of any liabilities incurred by the promoter ; and the forfeiture, repayment or return of the money or securities ;

(*c*) the plans and sections of any works to be deposited by the intending promoters in respect of an order under section 10 ;

(*d*) rules for the purposes of section 14 relating to the safe and efficient working of an aerial ropeway including—

(i) the regulation of the use of steam power or any other mechanical power or electrical power on a ropeway,

(ii) the standard dimensions and specifications with which the aerial ropeway shall conform,

(iii) the rate of speed at which carriers are to be moved or propelled,

(iv) the goods which shall be deemed to be dangerous or offensive goods, and the carriage of such goods by aerial ropeway,

(v) the maximum number of passengers and animals, and the minimum weight of goods to be carried in each carrier of an aerial ropeway,

(vi) the conduct of the promoter's servants, and

(vii) the terms and conditions on which the promoter shall warehouse or retain goods at any station on behalf of the consignee or owner of such goods ;

(*e*) the conditions under which and the manner in which the powers conferred on promoters by sub-section (*1*) of section 15 and sub-section (*1*) of section 16 may be exercised ;

(*f*) the maximum and minimum rates to be prescribed under section 18 and section 27 ;

(*g*) the accidents of which notices shall be given to the State Government and to the Inspector under clause (*c*) of section 20 and duties of the promoter's servants, police officers, and Magistrates on accidents reported under that section ;

(*h*) the procedure for the disposal of applications under sub-section (*2*) of section 21 to re-open an aerial ropeway for public traffic or part thereof and the conditions under which such ropeway may be re-opened ;

(*i*) the method of arbitration for the settlement of disputes under section 24 ;

(*j*) the procedure for filing, hearing and disposing of applications for revision under this Act, and the manner in which the advice of the Advisory Board may be taken under section 28 ;

(*k*) the intervals at which and the form in which returns shall be submitted under section 38 ;

(*l*) the preparation, submission and auditing of the accounts of the promoter ;

(*m*) the manner in which notices under this Act shall be served ;

(*n*) the manner in which, and the conditions under which the through booking of goods may be permitted between an aerial ropeway and a railway, tramway, or another aerial ropeway ;

(*o*) the fees to be charged to promoters and other persons in respect of applications, inquiries, inspection, and services rendered under this Act ; and

(*p*) any other matter which is or to be prescribed under this Act.

(*3*) All rules made under this section shall be published in the *Official Gazette*.

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